

1 DANIEL J. BERGESON, Bar No. 105439
2 dbergeson@be-law.com
3 JOHN W. FOWLER, Bar No. 037463
4 jfowler@be-law.com
5 MELINDA M. MORTON, Bar No. 209373
6 mmorton@be-law.com
BERGESON, LLP
303 Almaden Boulevard, Suite 500
San Jose, CA 95110-2712
Telephone: (408) 291-6200
Facsimile: (408) 297-6000

7 Attorneys for Plaintiff
VERIGY US, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 || VERIGY US, INC, a Delaware Corporation

Case No. C07 04330 RMW (HRL)

12 Plaintiff,

**DECLARATION OF
DONALD P. GAGLIARDI IN SUPPORT
OF VERIGY'S MOTION TO COMPEL**

14 ROMI OMAR MAYDER, an individual;
15 WESLEY MAYDER, an individual; SILICON
TEST SYSTEMS, INC., a California Corporation,
and SILICON TEST SOLUTIONS, LLC, a
16 California Limited Liability Corporation,
inclusive,

Judge: Honorable Howard R. Lloyd
Ctrm: 2

Complaint Filed: August 22, 2007
Trial Date: None Set

Defendants.

1 I, Donald P. Gagliardi, declare as follows:

2 1. I am an attorney licensed to practice law before all of the courts of the State of
3 California. I am a partner in the law firm of Bergeson, LLP, counsel of record for Plaintiff Verigy
4 US, Inc. (“Verigy”) in the above-captioned action. I have personal knowledge of the facts set
5 forth in this declaration, and, if called to do so, I could and would competently testify thereto.

6 2. On or about September 18, 2007, I caused to be faxed a letter to Daniel S. Mount
7 and Kevin M. Pasquinelli of Mount & Stoelker PC, counsel for defendants detailing Verigy’s
8 concerns related to defendants’ responses to requests for production. A true and correct copy of
9 my letter dated September 18, 2007 is attached hereto as Exhibit A.

10 3. On or about September 20, 2007, I received an email from Mr. Pasquinelli
11 responding to my letter of September 18, 2007. A true and correct copy of Mr. Pasquinelli’s email
12 dated September 20, 2007 is attached hereto as Exhibit B.

13 4. On or about September 24, 2007, I caused to be faxed a second letter to MSSRS.
14 Mount and Pasquinelli detailing additional concerns related to defendants’ responses to requests
15 for production. A true and correct copy of my letter dated September 24, 2007 is attached hereto
16 as Exhibit C.

17 5. On or about September 25, 2007, I received a letter from Mr. Pasquinelli
18 responding to my letters of September 18 and 24, 2007. A true and correct copy of Mr.
19 Pasquinelli’s letter dated September 25, 2007 is attached hereto as Exhibit D.

20 6. On or about September 27, 2007, I received an email from Mr. Pasquinelli
21 memorializing the status of the meet-and-confer process. A true and correct copy of Mr.
22 Pasquinelli’s email dated September 27, 2007 is attached hereto as Exhibit E.

23 7. On or about September 28, 2007, I caused to be faxed a letter to MSSRS. Mount and
24 Pasquinelli memorializing the status of the meet and confer process. A true and correct copy of
25 my letter dated September 28, 2007 is attached hereto as Exhibit F.

26 8. On or about October 1, 2007, I along with my colleague, Marc G. van Niekerk,
27 spoke with Mr. Pasquinelli by telephone in order to attempt to reach a solution to the apparent
28 impasse as to Verigy’s request for production No. 17. Mr. Pasquinelli proposed that bit-for-bit

1 copies of the hard drives be produced *minus any personal information related to Mayder and/or*
2 *any attorney client privileged communications.* I advised Mr. Pasquinelli that this might be
3 acceptable provided his firm was willing to provide us with written assurances that nothing
4 relevant or conceivably relevant to the litigation would be withheld apart from privileged
5 communications. Mr. Pasquinelli said he would get back to me with his client's response the
6 same day in light of the urgency in bring this motion. As of 5 p.m. PDT on October 1, 2007, he
7 had not done so.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct and that this declaration was executed this 1st day of October, 2007 at
10 San Jose, California.

11
12 _____
13 Donald P. Gagliardi
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28